

1 **EMERGENCY MEDICAL SERVICE SYSTEM AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Adam Gardiner**

5 Senate Sponsor: Todd Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions in the Utah Emergency Medical Services System Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ makes technical and conforming changes to align with the Emergency Medical
13 Services Personnel Licensure Interstate Compact.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **26-8a-102**, as last amended by Laws of Utah 2013, Chapter 246

21 **26-8a-103**, as last amended by Laws of Utah 2011, Chapters 51 and 297

22 **26-8a-104**, as last amended by Laws of Utah 2016, Chapter 74

23 **26-8a-105**, as last amended by Laws of Utah 2016, Chapter 168

24 **26-8a-106**, as last amended by Laws of Utah 2016, Chapter 74

25 **26-8a-208**, as last amended by Laws of Utah 2010, Chapter 391

26 **26-8a-301**, as last amended by Laws of Utah 2009, Chapter 22

27 **26-8a-302**, as last amended by Laws of Utah 2015, Chapter 307

28 **26-8a-308**, as last amended by Laws of Utah 2009, Chapter 22

29 **26-8a-310**, as repealed and reenacted by Laws of Utah 2015, Chapter 307

- 30 **26-8a-408**, as last amended by Laws of Utah 2015, Chapter 307
- 31 **26-8a-409**, as enacted by Laws of Utah 1999, Chapter 141
- 32 **26-8a-501**, as enacted by Laws of Utah 1999, Chapter 141
- 33 **26-8a-502**, as last amended by Laws of Utah 2009, Chapter 22
- 34 **26-8a-503**, as last amended by Laws of Utah 2015, Chapter 167
- 35 **26-8a-506**, as enacted by Laws of Utah 1999, Chapter 141
- 36 **26-8a-601**, as last amended by Laws of Utah 2009, Chapter 22
- 37 **41-6a-523**, as last amended by Laws of Utah 2012, Chapter 267
- 38 **53-10-405**, as last amended by Laws of Utah 2012, Chapter 267
- 39 **58-1-307**, as last amended by Laws of Utah 2016, Chapters 201 and 238
- 40 **72-10-502**, as last amended by Laws of Utah 2012, Chapter 267
- 41 **76-5-102.7**, as last amended by Laws of Utah 2016, Chapter 339
- 42 **78A-6-209**, as last amended by Laws of Utah 2016, Chapters 122 and 144
- 43 **78B-8-401**, as last amended by Laws of Utah 2013, Chapter 114

45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **26-8a-102** is amended to read:

47 **26-8a-102. Definitions.**

48 As used in this chapter:

49 (1) (a) "911 ambulance or paramedic services" means:

50 (i) either:

51 (A) 911 ambulance service;

52 (B) 911 paramedic service; or

53 (C) both 911 ambulance and paramedic service; and

54 (ii) a response to a 911 call received by a designated dispatch center that receives 911
55 or E911 calls.

56 (b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone
57 call received directly by an ambulance provider licensed under this chapter.

- 58 (2) "Ambulance" means a ground, air, or water vehicle that:
- 59 (a) transports patients and is used to provide emergency medical services; and
- 60 (b) is required to obtain a permit under Section 26-8a-304 to operate in the state.
- 61 (3) "Ambulance provider" means an emergency medical service provider that:
- 62 (a) transports and provides emergency medical care to patients; and
- 63 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.
- 64 (4) "Committee" means the State Emergency Medical Services Committee created by
- 65 Section 26-1-7.
- 66 (5) "Direct medical observation" means in-person observation of a patient by a
- 67 physician, registered nurse, physician's assistant, or individual [~~certified~~] licensed under
- 68 Section 26-8a-302.
- 69 (6) "Emergency medical condition" means:
- 70 (a) a medical condition that manifests itself by symptoms of sufficient severity,
- 71 including severe pain, that a prudent layperson, who possesses an average knowledge of health
- 72 and medicine, could reasonably expect the absence of immediate medical attention to result in:
- 73 (i) placing the individual's health in serious jeopardy;
- 74 (ii) serious impairment to bodily functions; or
- 75 (iii) serious dysfunction of any bodily organ or part; or
- 76 (b) a medical condition that in the opinion of a physician or his designee requires direct
- 77 medical observation during transport or may require the intervention of an individual [~~certified~~]
- 78 licensed under Section 26-8a-302 during transport.
- 79 (7) "Emergency medical service personnel":
- 80 (a) means an individual who provides emergency medical services to a patient and is
- 81 required to be [~~certified~~] licensed under Section 26-8a-302; and
- 82 (b) includes a paramedic, medical director of a licensed emergency medical service
- 83 provider, emergency medical service instructor, and other categories established by the
- 84 committee.
- 85 (8) "Emergency medical service providers" means:

- 86 (a) licensed ambulance providers and paramedic providers;
- 87 (b) a facility or provider that is required to be designated under Section 26-8a-303; and
- 88 (c) emergency medical service personnel.

89 (9) "Emergency medical services" means medical services, transportation services, or
90 both rendered to a patient.

91 (10) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

- 92 (a) maintained and used for the transportation of emergency medical personnel,
93 equipment, and supplies to the scene of a medical emergency; and
- 94 (b) required to be permitted under Section 26-8a-304.

95 (11) "Governing body":

- 96 (a) is as defined in Section 11-42-102; and
- 97 (b) for purposes of a "special service district" under Section 11-42-102, means a
98 special service district that has been delegated the authority to select a provider under this
99 chapter by the special service district's legislative body or administrative control board.

100 (12) "Interested party" means:

- 101 (a) a licensed or designated emergency medical services provider that provides
102 emergency medical services within or in an area that abuts an exclusive geographic service area
103 that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic
104 Providers;
- 105 (b) any municipality, county, or fire district that lies within or abuts a geographic
106 service area that is the subject of an application submitted pursuant to Part 4, Ambulance and
107 Paramedic Providers; or
- 108 (c) the department when acting in the interest of the public.

109 (13) "Medical control" means a person who provides medical supervision to an
110 emergency medical service provider.

111 (14) "Non-911 service" means transport of a patient that is not 911 transport under
112 Subsection (1).

113 (15) "Paramedic provider" means an entity that:

- 114 (a) employs emergency medical service personnel; and
- 115 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.
- 116 (16) "Patient" means an individual who, as the result of illness or injury, meets any of
- 117 the criteria in Section 26-8a-305.
- 118 (17) "Political subdivision" means:
- 119 (a) a city or town located in a county of the first or second class as defined in Section
- 120 17-50-501;
- 121 (b) a county of the first or second class;
- 122 (c) the following districts located in a county of the first or second class:
- 123 (i) a special service district created under Title 17D, Chapter 1, Special Service District
- 124 Act; or
- 125 (ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 126 Districts, for the purpose of providing fire protection, paramedic, and emergency services;
- 127 (d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);
- 128 (e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or
- 129 (f) a special service district for fire protection service under Subsection 17D-1-201(9).
- 130 (18) "Trauma" means an injury requiring immediate medical or surgical intervention.
- 131 (19) "Trauma system" means a single, statewide system that:
- 132 (a) organizes and coordinates the delivery of trauma care within defined geographic
- 133 areas from the time of injury through transport and rehabilitative care; and
- 134 (b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in
- 135 delivering care for trauma patients, regardless of severity.
- 136 (20) "Triage" means the sorting of patients in terms of disposition, destination, or
- 137 priority. For prehospital trauma victims, triage requires a determination of injury severity to
- 138 assess the appropriate level of care according to established patient care protocols.
- 139 (21) "Triage, treatment, transportation, and transfer guidelines" means written
- 140 procedures that:
- 141 (a) direct the care of patients; and

142 (b) are adopted by the medical staff of an emergency patient receiving facility, trauma
143 center, or an emergency medical service provider.

144 Section 2. Section **26-8a-103** is amended to read:

145 **26-8a-103. State Emergency Medical Services Committee -- Membership --**
146 **Expenses.**

147 (1) The State Emergency Medical Services Committee created by Section **26-1-7** shall
148 be composed of the following 16 members appointed by the governor, at least five of whom
149 shall reside in a county of the third, fourth, fifth, or sixth class:

150 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
151 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

- 152 (i) one surgeon who actively provides trauma care at a hospital;
- 153 (ii) one rural physician involved in emergency medical care;
- 154 (iii) two physicians who practice in the emergency department of a general acute
155 hospital; and

156 (iv) one pediatrician who practices in the emergency department or critical care unit of
157 a general acute hospital or a children's specialty hospital;

- 158 (b) one representative from a private ambulance provider;
- 159 (c) one representative from an ambulance provider that is neither privately owned nor
160 operated by a fire department;

161 (d) two chief officers from fire agencies operated by the following classes of licensed
162 or designated emergency medical services providers: municipality, county, and fire district,
163 provided that no class of medical services providers may have more than one representative
164 under this Subsection (1)(d);

165 (e) one director of a law enforcement agency that provides emergency medical
166 services;

- 167 (f) one hospital administrator;
- 168 (g) one emergency care nurse;
- 169 (h) one paramedic in active field practice;

170 (i) one emergency medical technician in active field practice;
171 (j) one [~~certified~~] licensed emergency medical dispatcher affiliated with an emergency
172 medical dispatch center; and

173 (k) one consumer.

174 (2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a
175 four-year term beginning July 1.

176 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment
177 or reappointment, adjust the length of terms to ensure that the terms of committee members are
178 staggered so that approximately half of the committee is appointed every two years.

179 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
180 appointed by the governor for the unexpired term.

181 (3) (a) Each January, the committee shall organize and select one of its members as
182 chair and one member as vice chair. The committee may organize standing or ad hoc
183 subcommittees, which shall operate in accordance with guidelines established by the
184 committee.

185 (b) The chair shall convene a minimum of four meetings per year. The chair may call
186 special meetings. The chair shall call a meeting upon request of five or more members of the
187 committee.

188 (c) Nine members of the committee constitute a quorum for the transaction of business
189 and the action of a majority of the members present is the action of the committee.

190 (4) A member may not receive compensation or benefits for the member's service, but
191 may receive per diem and travel expenses in accordance with:

192 (a) Section 63A-3-106;

193 (b) Section 63A-3-107; and

194 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
195 63A-3-107.

196 (5) Administrative services for the committee shall be provided by the department.

197 Section 3. Section **26-8a-104** is amended to read:

198 **26-8a-104. Committee advisory duties.**

199 The committee shall adopt rules, with the concurrence of the department, in accordance
200 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

201 (1) establish [~~certification~~] licensure and reciprocity requirements under Section
202 26-8a-302;

203 (2) establish designation requirements under Section 26-8a-303;

204 (3) promote the development of a statewide emergency medical services system under
205 Section 26-8a-203;

206 (4) establish insurance requirements for ambulance providers;

207 (5) provide guidelines for requiring patient data under Section 26-8a-203;

208 (6) establish criteria for awarding grants under Section 26-8a-207;

209 (7) establish requirements for the coordination of emergency medical services and the
210 medical supervision of emergency medical service providers under Section 26-8a-306; and

211 (8) are necessary to carry out the responsibilities of the committee as specified in other
212 sections of this chapter.

213 Section 4. Section **26-8a-105** is amended to read:

214 **26-8a-105. Department powers.**

215 The department shall:

216 (1) coordinate the emergency medical services within the state;

217 (2) administer this chapter and the rules established pursuant to it;

218 (3) establish a voluntary task force representing a diversity of emergency medical
219 service providers to advise the department and the committee on rules;

220 (4) establish an emergency medical service personnel peer review board to advise the
221 department concerning discipline of emergency medical service personnel under this chapter;
222 and

223 (5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
224 Rulemaking Act, to:

225 (a) license ambulance providers and paramedic providers;

226 (b) permit ambulances and emergency medical response vehicles, including approving
227 an emergency vehicle operator's course in accordance with Section 26-8a-304;

228 (c) establish:

229 (i) the qualifications for membership of the peer review board created by this section;

230 (ii) a process for placing restrictions on a [~~certification~~] license while an investigation
231 is pending;

232 (iii) the process for the investigation and recommendation by the peer review board;

233 and

234 (iv) the process for determining the status of a license [~~or certification~~] while a peer
235 review board investigation is pending;

236 (d) establish application, submission, and procedural requirements for licenses,
237 designations, [~~certificates,~~] and permits; and

238 (e) establish and implement the programs, plans, and responsibilities as specified in
239 other sections of this chapter.

240 Section 5. Section 26-8a-106 is amended to read:

241 **26-8a-106. Waiver of rules and education and licensing requirements.**

242 (1) Upon application, the department, or the committee with the concurrence of the
243 department, may waive the requirements of a rule the department, or the committee with the
244 concurrence of the department, has adopted if:

245 (a) the person applying for the waiver satisfactorily demonstrates that:

246 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;

247 (ii) in the particular situation, the requirement serves no beneficial public purpose; or

248 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit
249 to be gained by adherence to the rule; and

250 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii):

251 (i) the committee or department extends the waiver to similarly situated persons upon
252 application; or

253 (ii) the department, or the committee with the concurrence of the department, amends

254 the rule to be consistent with the waiver.

255 (2) A waiver of education~~[, licensing, or certification]~~ or licensing requirements may
256 be granted to a veteran, as defined in Section 68-3-12.5, if the veteran:

257 (a) provides to the committee or department documentation showing military education
258 and training in the field in which ~~[certification or]~~ licensure is sought; and

259 (b) successfully passes any examination required.

260 (3) No waiver may be granted under this section that is inconsistent with the provisions
261 of this chapter.

262 Section 6. Section 26-8a-208 is amended to read:

263 **26-8a-208. Fees for training equipment rental, testing, and quality assurance**
264 **reviews.**

265 (1) The department may charge fees, established pursuant to Section 26-1-6:

266 (a) for the use of department-owned training equipment;

267 (b) to administer tests and conduct quality assurance reviews; and

268 (c) to process an application for a ~~[certificate,]~~ designation, permit, or license.

269 (2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated
270 credits.

271 (b) Fees under Subsection (1)(a) may be used to purchase training equipment.

272 (c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality
273 assurance reviews.

274 Section 7. Section 26-8a-301 is amended to read:

275 **26-8a-301. General requirement.**

276 (1) Except as provided in Section 26-8a-308 or 26-8b-201:

277 (a) an individual may not provide emergency medical services without a ~~[certificate]~~
278 license issued under Section 26-8a-302;

279 (b) a facility or provider may not hold itself out as a designated emergency medical
280 service provider without a designation issued under Section 26-8a-303;

281 (c) a vehicle may not operate as an ambulance or emergency response vehicle without a

282 permit issued under Section 26-8a-304; and

283 (d) an entity may not respond as an ambulance or paramedic provider without the
284 appropriate license issued under Part 4, Ambulance and Paramedic Providers.

285 (2) Section 26-8a-502 applies to violations of this section.

286 Section 8. Section 26-8a-302 is amended to read:

287 **26-8a-302. Licensure of emergency medical service personnel.**

288 (1) To promote the availability of comprehensive emergency medical services
289 throughout the state, the committee shall establish:

290 (a) initial and ongoing [~~certification~~] licensure and training requirements for
291 emergency medical service personnel in the following categories:

292 (i) paramedic;

293 (ii) medical director;

294 (iii) emergency medical service instructor; and

295 (iv) other types of emergency medical personnel as the committee considers necessary;

296 and

297 (b) guidelines for giving credit for out-of-state training and experience.

298 (2) The department shall, based on the requirements established in Subsection (1):

299 (a) develop, conduct, and authorize training and testing for emergency medical service
300 personnel; and

301 (b) issue [~~certifications and certification~~] a license and license renewals to emergency
302 medical service personnel.

303 (3) As provided in Section 26-8a-502, an individual issued a [~~certification~~] license
304 under this section may only provide emergency medical services to the extent allowed by the
305 [~~certification~~] license.

306 (4) An individual may not be issued or retain a [~~certification~~] license under this section
307 unless the individual obtains and retains background clearance under Section 26-8a-310.

308 Section 9. Section 26-8a-308 is amended to read:

309 **26-8a-308. Exemptions.**

310 (1) The following persons may provide emergency medical services to a patient
311 without being [~~certified or~~] licensed under this chapter:

312 (a) out-of-state emergency medical service personnel and providers in time of disaster;

313 (b) an individual who gratuitously acts as a Good Samaritan;

314 (c) a family member;

315 (d) a private business if emergency medical services are provided only to employees at
316 the place of business and during transport;

317 (e) an agency of the United States government if compliance with this chapter would
318 be inconsistent with federal law; and

319 (f) police, fire, and other public service personnel if:

320 (i) emergency medical services are rendered in the normal course of the person's duties;
321 and

322 (ii) medical control, after being apprised of the circumstances, directs immediate
323 transport.

324 (2) An ambulance or emergency response vehicle may operate without a permit issued
325 under Section 26-8a-304 in time of disaster.

326 (3) Nothing in this chapter or Title 58, Occupations and Professions, may be construed
327 as requiring a license [~~or certificate~~] for an individual to administer cardiopulmonary
328 resuscitation or to use a fully automated external defibrillator under Section 26-8b-201.

329 (4) Nothing in this chapter may be construed as requiring a license, permit, or
330 designation[~~, or certificate~~] for an acute care hospital, medical clinic, physician's office, or
331 other fixed medical facility that:

332 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
333 nurse; and

334 (b) treats an individual who has presented himself or was transported to the hospital,
335 clinic, office, or facility.

336 Section 10. Section 26-8a-310 is amended to read:

337 **26-8a-310. Background clearance for emergency medical service personnel.**

338 (1) The department shall determine whether to grant background clearance for an
339 individual seeking [~~certification~~] licensure under Section 26-8a-302 from whom it receives:

340 (a) the individual's social security number, fingerprints, and other personal
341 identification information specified by the department under Subsection (4); and

342 (b) any fees established by the department under Subsection (10).

343 (2) The department shall determine whether to deny or revoke background clearance
344 for individuals for whom it has previously granted background clearance.

345 (3) The department shall determine whether to grant, deny, or revoke background
346 clearance for an individual based on an initial and ongoing evaluation of information the
347 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
348 initial criminal background check of state, regional, and national databases using the
349 individual's fingerprints.

350 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
351 Administrative Rulemaking Act, that specify:

352 (a) the criteria the department will use under Subsection (3) to determine whether to
353 grant, deny, or revoke background clearance; and

354 (b) the other personal identification information an individual seeking [~~certification~~]
355 licensure under Section 26-8a-302 must submit under Subsection (1).

356 (5) To determine whether to grant, deny, or revoke background clearance, the
357 department may access and evaluate any of the following:

358 (a) Department of Public Safety arrest, conviction, and disposition records described in
359 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
360 information in state, regional, and national records files;

361 (b) adjudications by a juvenile court of committing an act that if committed by an adult
362 would be a felony or misdemeanor, if:

363 (i) the applicant is under 28 years of age; or

364 (ii) the applicant:

365 (A) is over 28 years of age; and

366 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
367 abeyance or diversion agreement for a felony or misdemeanor;

368 (c) juvenile court arrest, adjudication, and disposition records, other than those under
369 Subsection (5)(b), as allowed under Section [78A-6-209](#);

370 (d) child abuse or neglect findings described in Section [78A-6-323](#);

371 (e) the Department of Human Services' Division of Child and Family Services
372 Licensing Information System described in Section [62A-4a-1006](#);

373 (f) the Department of Human Services' Division of Aging and Adult Services database
374 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section [62A-3-311.1](#);

375 (g) Division of Occupational and Professional Licensing records of licensing and
376 certification under Title 58, Occupations and Professions;

377 (h) records in other federal criminal background databases available to the state; and

378 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
379 pending diversion agreements, or dispositions.

380 (6) Except for the Department of Public Safety, an agency may not charge the
381 department for information accessed under Subsection (5).

382 (7) When evaluating information under Subsection (3), the department shall classify a
383 crime committed in another state according to the closest matching crime under Utah law,
384 regardless of how the crime is classified in the state where the crime was committed.

385 (8) The department shall adopt measures to protect the security of information it
386 accesses under Subsection (5), which shall include limiting access by department employees to
387 those responsible for acquiring, evaluating, or otherwise processing the information.

388 (9) The department may disclose personal identification information it receives under
389 Subsection (1) to the Department of Human Services to verify that the subject of the
390 information is not identified as a perpetrator or offender in the information sources described in
391 Subsections (5)(d) through (f).

392 (10) The department may charge fees, in accordance with Section [63J-1-504](#), to pay
393 for:

394 (a) the cost of obtaining, storing, and evaluating information needed under Subsection
395 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
396 background clearance; and

397 (b) other department costs related to granting, denying, or revoking background
398 clearance.

399 (11) The Criminal Investigations and Technical Services Division within the
400 Department of Public Safety shall:

401 (a) retain, separate from other division records, personal information under Subsection
402 (1), including any fingerprints sent to it by the Department of Health; and

403 (b) notify the Department of Health upon receiving notice that an individual for whom
404 personal information has been retained is the subject of:

405 (i) a warrant for arrest;

406 (ii) an arrest;

407 (iii) a conviction, including a plea in abeyance; or

408 (iv) a pending diversion agreement.

409 (12) The department shall use the Direct Access Clearance System database created
410 under Section 26-21-209 to manage information about the background clearance status of each
411 individual for whom the department is required to make a determination under Subsection (1).

412 Section 11. Section 26-8a-408 is amended to read:

413 **26-8a-408. Criteria for determining public convenience and necessity.**

414 (1) The criteria for determining public convenience and necessity is set forth in
415 Subsections (2) through (6).

416 (2) Access to emergency medical services shall be maintained or improved. The
417 officer shall consider the impact on existing services, including the impact on response times,
418 call volumes, populations and exclusive geographic service areas served, and the ability of
419 surrounding licensed providers to service their exclusive geographic service areas. The
420 issuance or amendment of a license may not create an orphaned area.

421 (3) The quality of service in the area shall be maintained or improved. The officer

422 shall consider the:

423 (a) staffing and equipment standards of the current licensed provider and the applicant;

424 (b) training and [~~certification~~] licensure levels of the current licensed provider's staff
425 and the applicant's staff;

426 (c) continuing medical education provided by the current licensed provider and the
427 applicant;

428 (d) levels of care as defined by department rule;

429 (e) plan of medical control; and

430 (f) the negative or beneficial impact on the regional emergency medical service system
431 to provide service to the public.

432 (4) The cost to the public shall be justified. The officer shall consider:

433 (a) the financial solvency of the applicant;

434 (b) the applicant's ability to provide services within the rates established under Section
435 [26-8a-403](#);

436 (c) the applicant's ability to comply with cost reporting requirements;

437 (d) the cost efficiency of the applicant; and

438 (e) the cost effect of the application on the public, interested parties, and the emergency
439 medical services system.

440 (5) Local desires concerning cost, quality, and access shall be considered. The officer
441 shall assess and consider:

442 (a) the existing provider's record of providing services and the applicant's record and
443 ability to provide similar or improved services;

444 (b) locally established emergency medical services goals, including those established in
445 Subsection (7);

446 (c) comment by local governments on the applicant's business and operations plans;

447 (d) comment by interested parties that are providers on the impact of the application on
448 the parties' ability to provide emergency medical services;

449 (e) comment by interested parties that are local governments on the impact of the

450 application on the citizens it represents; and

451 (f) public comment on any aspect of the application or proposed license.

452 (6) Other related criteria:

453 (a) the officer considers necessary; or

454 (b) established by department rule.

455 (7) Local governments shall establish cost, quality, and access goals for the ground
456 ambulance and paramedic services that serve their areas.

457 (8) In a formal adjudicative proceeding, the applicant bears the burden of establishing
458 that public convenience and necessity require the approval of the application for all or part of
459 the exclusive geographic service area requested.

460 Section 12. Section **26-8a-409** is amended to read:

461 **26-8a-409. Ground ambulance and paramedic licenses -- Hearing and presiding**
462 **officers.**

463 (1) The department shall set [~~certification and~~] training standards for hearing officers
464 and presiding officers.

465 (2) At a minimum, a presiding officer shall:

466 (a) be familiar with the theory and application of public convenience and necessity; and

467 (b) have a working knowledge of the emergency medical service system in the state.

468 (3) In addition to the requirements in Subsection (2), a hearing officer shall also be
469 licensed to practice law in the state.

470 (4) The department shall provide training for hearing officer and presiding officer
471 candidates in the theory and application of public convenience and necessity and on the
472 emergency medical system in the state.

473 (5) The department shall maintain a roster of no less than five individuals who meet
474 the minimum qualifications for both presiding and hearing officers and the standards set by the
475 department.

476 (6) The parties may mutually select an officer from the roster if the officer is available.

477 (7) If the parties cannot agree upon an officer under Subsection (4), the department

478 shall randomly select an officer from the roster or from a smaller group of the roster agreed
479 upon by the applicant and the objecting interested parties.

480 Section 13. Section **26-8a-501** is amended to read:

481 **26-8a-501. Discrimination prohibited.**

482 (1) No person licensed~~[,certified,]~~ or designated pursuant to this chapter may
483 discriminate in the provision of emergency medical services on the basis of race, sex, color,
484 creed, or prior inquiry as to ability to pay.

485 (2) This chapter does not authorize or require medical assistance or transportation over
486 the objection of an individual on religious grounds.

487 Section 14. Section **26-8a-502** is amended to read:

488 **26-8a-502. Illegal activity.**

489 (1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

490 (a) practice or engage in the practice, represent ~~[himself to be]~~ that the person is
491 practicing or engaging in the practice, or attempt to practice or engage in the practice of any
492 activity that requires a license~~[,certification,]~~ or designation under this chapter unless that
493 person ~~[is so licensed, certified, or designated]~~ is licensed or designated under this chapter; or

494 (b) offer an emergency medical service that requires a license~~[,certificate,]~~ or
495 designation under this chapter unless the person is ~~[so licensed, certified, or designated]~~
496 licensed or designated under this chapter.

497 (2) A person may not advertise or ~~[hold himself out as one holding]~~ represent that the
498 person holds a license~~[,certification,]~~ or designation required under this chapter, unless that
499 person holds the license~~[,certification,]~~ or designation under this chapter.

500 (3) A person may not employ or permit any employee to perform any service for which
501 a license ~~[or certificate]~~ is required by this chapter, unless the person performing the service
502 possesses the required license ~~[or certificate]~~ under this chapter.

503 (4) A person may not wear, display, sell, reproduce, or otherwise use any Utah
504 Emergency Medical Services insignia without authorization from the department.

505 (5) A person may not reproduce or otherwise use materials developed by the

506 department for [~~certification or recertification~~] licensure testing or examination without
507 authorization from the department.

508 (6) A person may not willfully summon an ambulance or emergency response vehicle
509 or report that one is needed when [~~such~~] the person knows that the ambulance or emergency
510 response vehicle is not needed.

511 (7) A person who violates this section is subject to Section 26-23-6.

512 Section 15. Section **26-8a-503** is amended to read:

513 **26-8a-503. Discipline of emergency medical services personnel.**

514 (1) The department may refuse to issue a [~~certificate~~] license or renewal, or revoke,
515 suspend, restrict, or place on probation an individual's [~~certificate~~] license if:

516 (a) the individual does not meet the qualifications for [~~certification~~] licensure under
517 Section 26-8a-302;

518 (b) the individual has engaged in conduct, as defined by committee rule, that:

519 (i) is unprofessional;

520 (ii) is adverse to the public health, safety, morals, or welfare; or

521 (iii) would adversely affect public trust in the emergency medical service system;

522 (c) the individual has violated Section 26-8a-502 or other provision of this chapter;

523 (d) a court of competent jurisdiction has determined the individual to be mentally
524 incompetent for any reason; or

525 (e) the individual is unable to provide emergency medical services with reasonable
526 skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other
527 type of material, or as a result of any other mental or physical condition, when the individual's
528 condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers,
529 or the public health, safety, or welfare that cannot be reasonably mitigated.

530 (2) (a) An action to revoke, suspend, restrict, or place a [~~certificate~~] license on
531 probation shall be done in:

532 (i) consultation with the peer review board created in Section 26-8a-105; and

533 (ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

534 (b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist
535 order under Section 26-8a-507 to immediately suspend an individual's [certificate] license
536 pending an administrative proceeding to be held within 30 days if there is evidence to show
537 that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the
538 public health, safety, or welfare.

539 (3) An individual whose [certificate] license has been suspended, revoked, or restricted
540 may apply for reinstatement of the [certificate] license at reasonable intervals and upon
541 compliance with any conditions imposed upon the [certificate] license by statute, committee
542 rule, or the terms of the suspension, revocation, or restriction.

543 (4) In addition to taking disciplinary action under Subsection (1), the department may
544 impose sanctions in accordance with Section 26-23-6.

545 Section 16. Section 26-8a-506 is amended to read:

546 **26-8a-506. Investigations for enforcement of chapter.**

547 (1) The department may, for the purpose of ascertaining compliance with the
548 provisions of this chapter, enter and inspect on a routine basis the business premises and
549 equipment of a person:

- 550 (a) with a [~~certificate,~~] designation, permit, or license; or
- 551 (b) who holds himself out to the general public as providing a service for which a
552 [~~certificate,~~] designation, permit, or license is required under Section 26-8a-301.

553 (2) Before conducting an inspection under Subsection (1), the department shall, after
554 identifying the person in charge:

- 555 (a) give proper identification;
- 556 (b) describe the nature and purpose of the inspection; and
- 557 (c) if necessary, explain the authority of the department to conduct the inspection.

558 (3) In conducting an inspection under Subsection (1), the department may, after
559 meeting the requirements of Subsection (2):

- 560 (a) inspect records, equipment, and vehicles; and
- 561 (b) interview personnel.

562 (4) An inspection conducted under Subsection (1) shall be during regular operational
563 hours.

564 Section 17. Section **26-8a-601** is amended to read:

565 **26-8a-601. Persons and activities exempt from civil liability.**

566 (1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's
567 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written
568 instructions to any of the following is not liable for any civil damages as a result of issuing the
569 instructions:

570 (i) an individual [~~certified~~] licensed under Section **26-8a-302**;

571 (ii) a person who uses a fully automated external defibrillator, as defined in Section
572 **26-8b-102**; or

573 (iii) a person who administers CPR, as defined in Section **26-8b-102**.

574 (b) The liability protection described in Subsection (1)(a) does not apply if the
575 instructions given were the result of gross negligence or willful misconduct.

576 (2) An individual [~~certified~~] licensed under Section **26-8a-302**, during either training or
577 after [~~certification~~] licensure, a licensed physician, a physician's assistant, or a registered nurse
578 who, gratuitously and in good faith, provides emergency medical instructions or renders
579 emergency medical care authorized by this chapter is not liable for any civil damages as a result
580 of any act or omission in providing the emergency medical instructions or medical care, unless
581 the act or omission is the result of gross negligence or willful misconduct.

582 (3) An individual [~~certified~~] licensed under Section **26-8a-302** is not subject to civil
583 liability for failure to obtain consent in rendering emergency medical services authorized by
584 this chapter to any individual who is unable to give his consent, regardless of the individual's
585 age, where there is no other person present legally authorized to consent to emergency medical
586 care, provided that the [~~certified~~] licensed individual acted in good faith.

587 (4) A principal, agent, contractor, employee, or representative of an agency,
588 organization, institution, corporation, or entity of state or local government that sponsors,
589 authorizes, supports, finances, or supervises any functions of an individual [~~certified~~] licensed

590 under Section 26-8a-302 is not liable for any civil damages for any act or omission in
591 connection with such sponsorship, authorization, support, finance, or supervision of the
592 [certified] licensed individual where the act or omission occurs in connection with the
593 [certified] licensed individual's training or occurs outside a hospital where the life of a patient
594 is in immediate danger, unless the act or omission is inconsistent with the training of the
595 [certified] licensed individual, and unless the act or omission is the result of gross negligence
596 or willful misconduct.

597 (5) A physician who gratuitously and in good faith arranges for, requests, recommends,
598 or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is
599 not liable for any civil damages as a result of such transfer where:

600 (a) sound medical judgment indicates that the patient's medical condition is beyond the
601 care capability of the transferring hospital or the medical community in which that hospital is
602 located; and

603 (b) the physician has secured an agreement from the receiving facility to accept and
604 render necessary treatment to the patient.

605 (6) A person who is a registered member of the National Ski Patrol System (NSPS) or
606 a member of a ski patrol who has completed a course in winter emergency care offered by the
607 NSPS combined with CPR for medical technicians offered by the American Red Cross or
608 American Heart Association, or an equivalent course of instruction, and who in good faith
609 renders emergency care in the course of ski patrol duties is not liable for civil damages as a
610 result of any act or omission in rendering the emergency care, unless the act or omission is the
611 result of gross negligence or willful misconduct.

612 (7) An emergency medical service provider who, in good faith, transports an individual
613 against his will but at the direction of a law enforcement officer pursuant to Section
614 62A-15-629 is not liable for civil damages for transporting the individual.

615 Section 18. Section 41-6a-523 is amended to read:

616 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

617 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to

618 determine its alcohol or drug content:

619 (i) a physician;

620 (ii) a registered nurse;

621 (iii) a licensed practical nurse;

622 (iv) a paramedic;

623 (v) as provided in Subsection (1)(b), emergency medical service personnel other than
624 paramedics; or

625 (vi) a person with a valid permit issued by the Department of Health under Section
626 [26-1-30](#).

627 (b) The Department of Health may designate by rule, in accordance with Title 63G,
628 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
629 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection (1)(a)(v),
630 based on ~~[their]~~ the type of ~~[certification]~~ license under Section [26-8a-302](#).

631 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

632 (2) The following are immune from civil or criminal liability arising from drawing a
633 blood sample from a person whom a peace officer has reason to believe is driving in violation
634 of this chapter, if the sample is drawn in accordance with standard medical practice:

635 (a) a person authorized to draw blood under Subsection (1)(a); and

636 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

637 Section 19. Section **53-10-405** is amended to read:

638 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**
639 **Blood sample to be drawn by professional.**

640 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection
641 [53-10-404\(5\)](#).

642 (b) The sample shall be obtained in a professionally acceptable manner, using
643 appropriate procedures to ensure the sample is adequate for DNA analysis.

644 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the
645 following:

- 646 (i) a physician;
- 647 (ii) a registered nurse;
- 648 (iii) a licensed practical nurse;
- 649 (iv) a paramedic;
- 650 (v) as provided in Subsection (2)(b), emergency medical service personnel other than
- 651 paramedics; or
- 652 (vi) a person with a valid permit issued by the Department of Health under Section
- 653 [26-1-30](#).

654 (b) The Department of Health may designate by rule, in accordance with Title 63G,
655 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
656 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection (2)(a)(v),
657 based on ~~[their]~~ the type of ~~[certification]~~ license under Section [26-8a-302](#).

658 (c) A person authorized by this section to draw a blood sample may not be held civilly
659 liable for drawing a sample in a medically acceptable manner.

660 (3) A test result or opinion based upon a test result regarding a DNA specimen may not
661 be rendered inadmissible as evidence solely because of deviations from procedures adopted by
662 the department that do not affect the reliability of the opinion or test result.

663 (4) A DNA specimen is not required to be obtained if:

664 (a) the court or the responsible agency confirms with the department that the
665 department has previously received an adequate DNA specimen obtained from the person in
666 accordance with this section; or

667 (b) the court determines that obtaining a DNA specimen would create a substantial and
668 unreasonable risk to the health of the person.

669 Section 20. Section **58-1-307** is amended to read:

670 **58-1-307. Exemptions from licensure.**

671 (1) Except as otherwise provided by statute or rule, the following individuals may
672 engage in the practice of their occupation or profession, subject to the stated circumstances and
673 limitations, without being licensed under this title:

674 (a) an individual serving in the armed forces of the United States, the United States
675 Public Health Service, the United States Department of Veterans Affairs, or other federal
676 agencies while engaged in activities regulated under this chapter as a part of employment with
677 that federal agency if the individual holds a valid license to practice a regulated occupation or
678 profession issued by any other state or jurisdiction recognized by the division;

679 (b) a student engaged in activities constituting the practice of a regulated occupation or
680 profession while in training in a recognized school approved by the division to the extent the
681 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
682 part of the training program;

683 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
684 fellowship, apprenticeship, or on-the-job training program approved by the division while
685 under the supervision of qualified individuals;

686 (d) an individual residing in another state and licensed to practice a regulated
687 occupation or profession in that state, who is called in for a consultation by an individual
688 licensed in this state, and the services provided are limited to that consultation;

689 (e) an individual who is invited by a recognized school, association, society, or other
690 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
691 regulated occupation or profession if the individual does not establish a place of business or
692 regularly engage in the practice of the regulated occupation or profession in this state;

693 (f) an individual licensed under the laws of this state, other than under this title, to
694 practice or engage in an occupation or profession, while engaged in the lawful, professional,
695 and competent practice of that occupation or profession;

696 (g) an individual licensed in a health care profession in another state who performs that
697 profession while attending to the immediate needs of a patient for a reasonable period during
698 which the patient is being transported from outside of this state, into this state, or through this
699 state;

700 (h) an individual licensed in another state or country who is in this state temporarily to
701 attend to the needs of an athletic team or group, except that the practitioner may only attend to

702 the needs of the athletic team or group, including all individuals who travel with the team or
703 group in any capacity except as a spectator;

704 (i) an individual licensed and in good standing in another state, who is in this state:

705 (i) temporarily, under the invitation and control of a sponsoring entity;

706 (ii) for a reason associated with a special purpose event, based upon needs that may
707 exceed the ability of this state to address through its licensees, as determined by the division;

708 and

709 (iii) for a limited period of time not to exceed the duration of that event, together with
710 any necessary preparatory and conclusionary periods; and

711 (j) the spouse of an individual serving in the armed forces of the United States while
712 the individual is stationed within this state, provided:

713 (i) the spouse holds a valid license to practice a regulated occupation or profession
714 issued by any other state or jurisdiction recognized by the division; and

715 (ii) the license is current and the spouse is in good standing in the state of licensure.

716 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
717 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
718 practitioner derives authority to practice.

719 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
720 exempt status, denial of license, or other disciplinary proceedings.

721 (3) An individual who is licensed under a specific chapter of this title to practice or
722 engage in an occupation or profession may engage in the lawful, professional, and competent
723 practice of that occupation or profession without additional licensure under other chapters of
724 this title, except as otherwise provided by this title.

725 (4) Upon the declaration of a national, state, or local emergency, a public health
726 emergency as defined in Section [26-23b-102](#), or a declaration by the president of the United
727 States or other federal official requesting public health-related activities, the division in
728 collaboration with the board may:

729 (a) suspend the requirements for permanent or temporary licensure of individuals who

730 are licensed in another state for the duration of the emergency while engaged in the scope of
731 practice for which they are licensed in the other state;

732 (b) modify, under the circumstances described in this Subsection (4) and Subsection
733 (5), the scope of practice restrictions under this title for individuals who are licensed under this
734 title as:

735 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
736 Osteopathic Medical Practice Act;

737 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
738 Compact;

739 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

740 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
741 Pharmacy Practice Act;

742 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

743 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
744 Practice Act; and

745 (vii) a physician assistant under Chapter 70a, Physician Assistant Act;

746 (c) suspend the requirements for licensure under this title and modify the scope of
747 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
748 services personnel or paramedics required to be ~~certified~~ licensed under Section [26-8a-302](#);

749 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require
750 certain prescriptive procedures;

751 (e) exempt or modify the requirement for licensure of an individual who is activated as
752 a member of a medical reserve corps during a time of emergency as provided in Section
753 [26A-1-126](#); and

754 (f) exempt or modify the requirement for licensure of an individual who is registered as
755 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
756 Volunteer Health Practitioners Act.

757 (5) Individuals exempt under Subsection (4)(c) and individuals operating under

758 modified scope of practice provisions under Subsection (4)(b):

759 (a) are exempt from licensure or subject to modified scope of practice for the duration
760 of the emergency;

761 (b) must be engaged in the distribution of medicines or medical devices in response to
762 the emergency or declaration; and

763 (c) must be employed by or volunteering for:

764 (i) a local or state department of health; or

765 (ii) a host entity as defined in Section 26-49-102.

766 (6) In accordance with the protocols established under Subsection (8), upon the
767 declaration of a national, state, or local emergency, the Department of Health or a local health
768 department shall coordinate with public safety authorities as defined in Subsection
769 26-23b-110(1) and may:

770 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
771 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
772 consequence of, the emergency; or

773 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
774 a controlled substance:

775 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
776 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
777 is exhausted; or

778 (ii) for dispensing or direct administration to treat the disease or condition that gave
779 rise to, or was a consequence of, the emergency by:

780 (A) a pharmacy;

781 (B) a prescribing practitioner;

782 (C) a licensed health care facility;

783 (D) a federally qualified community health clinic; or

784 (E) a governmental entity for use by a community more than 50 miles from a person
785 described in Subsections (6)(b)(ii)(A) through (D).

786 (7) In accordance with protocols established under Subsection (8), upon the declaration
787 of a national, state, or local emergency, the Department of Health shall coordinate the
788 distribution of medications:

- 789 (a) received from the strategic national stockpile to local health departments; and
- 790 (b) from local health departments to emergency personnel within the local health
791 departments' geographic region.

792 (8) The Department of Health shall establish by rule, made in accordance with Title
793 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
794 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
795 not a controlled substance in the event of a declaration of a national, state, or local emergency.
796 The protocol shall establish procedures for the Department of Health or a local health
797 department to:

- 798 (a) coordinate the distribution of:
 - 799 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
800 controlled substance received by the Department of Health from the strategic national stockpile
801 to local health departments; and
 - 802 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
803 medication received by a local health department to emergency personnel within the local
804 health department's geographic region;
- 805 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
806 an antibiotic, or other prescription medication that is not a controlled substance to the contact
807 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
808 that of the physician's patient; and
- 809 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
810 an antibiotic, or other non-controlled prescription medication to an individual who:
 - 811 (i) is working in a triage situation;
 - 812 (ii) is receiving preventative or medical treatment in a triage situation;
 - 813 (iii) does not have coverage for the prescription in the individual's health insurance

814 plan;

815 (iv) is involved in the delivery of medical or other emergency services in response to
816 the declared national, state, or local emergency; or

817 (v) otherwise has a direct impact on public health.

818 (9) The Department of Health shall give notice to the division upon implementation of
819 the protocol established under Subsection (8).

820 Section 21. Section **72-10-502** is amended to read:

821 **72-10-502. Implied consent to chemical tests for alcohol or drugs -- Number of**
822 **tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give**
823 **test -- Evidence -- Immunity from liability.**

824 (1) (a) A person operating an aircraft in this state consents to a chemical test or tests of
825 the person's breath, blood, urine, or oral fluids:

826 (i) for the purpose of determining whether the person was operating or in actual
827 physical control of an aircraft while having a blood or breath alcohol content statutorily
828 prohibited under Section [72-10-501](#), or while under the influence of alcohol, any drug, or
829 combination of alcohol and any drug under Section [72-10-501](#), if the test is or tests are
830 administered at the direction of a peace officer having grounds to believe that person to have
831 been operating or in actual physical control of an aircraft in violation of Section [72-10-501](#); or

832 (ii) if the person operating the aircraft is involved in an accident that results in death,
833 serious injury, or substantial aircraft damage.

834 (b) (i) The peace officer determines which of the tests are administered and how many
835 of them are administered.

836 (ii) The peace officer may order any or all tests of the person's breath, blood, urine, or
837 oral fluids.

838 (iii) If an officer requests more than one test, refusal by a person to take one or more
839 requested tests, even though the person does submit to any other requested test or tests, is a
840 refusal under this section.

841 (c) (i) A person who has been requested under this section to submit to a chemical test

842 or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be
843 administered.

844 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
845 not a defense to taking a test requested by a peace officer, and it is not a defense in any
846 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
847 requested test or tests.

848 (2) (a) If the person has been placed under arrest and has then been requested by a
849 peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and
850 refuses to submit to any chemical test, the person shall be warned by the peace officer
851 requesting the test that a refusal to submit to the test is admissible in civil or criminal
852 proceedings as provided under Subsection (8).

853 (b) Following this warning, unless the person immediately requests that the chemical
854 test offered by a peace officer be administered, a test may not be given.

855 (3) Any person who is dead, unconscious, or in any other condition rendering the
856 person incapable of refusal to submit to any chemical test or tests is considered to not have
857 withdrawn the consent provided for in Subsection (1), and the test or tests may be administered
858 whether the person has been arrested or not.

859 (4) Upon the request of the person who was tested, the results of the test or tests shall
860 be made available to that person.

861 (5) (a) Only the following, acting at the request of a peace officer, may draw blood to
862 determine its alcohol or drug content:

863 (i) a physician;

864 (ii) a registered nurse;

865 (iii) a licensed practical nurse;

866 (iv) a paramedic;

867 (v) as provided in Subsection (5)(b), emergency medical service personnel other than
868 paramedics; or

869 (vi) a person with a valid permit issued by the Department of Health under Section

870 26-1-30.

871 (b) The Department of Health may designate by rule, in accordance with Title 63G,
872 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
873 as defined in Section 26-8a-102, are authorized to draw blood under Subsection (5)(a)(v),
874 based on [~~their~~] the type of [~~certification~~] license under Section 26-8a-302.

875 (c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.

876 (d) The following are immune from civil or criminal liability arising from drawing a
877 blood sample from a person who a peace officer has reason to believe is flying in violation of
878 this chapter if the sample is drawn in accordance with standard medical practice:

879 (i) a person authorized to draw blood under Subsection (5)(a); and

880 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

881 (6) (a) The person to be tested may, at the person's own expense, have a physician of
882 the person's own choice administer a chemical test in addition to the test or tests administered
883 at the direction of a peace officer.

884 (b) The failure or inability to obtain the additional test does not affect admissibility of
885 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
886 test or tests to be taken at the direction of a peace officer.

887 (c) The additional test shall be subsequent to the test or tests administered at the
888 direction of a peace officer.

889 (7) For the purpose of determining whether to submit to a chemical test or tests, the
890 person to be tested does not have the right to consult an attorney or have an attorney, physician,
891 or other person present as a condition for the taking of any test.

892 (8) If a person under arrest refuses to submit to a chemical test or tests or any
893 additional test under this section, evidence of any refusal is admissible in any civil or criminal
894 action or proceeding arising out of acts alleged to have been committed while the person was
895 operating or in actual physical control of an aircraft while under the influence of alcohol, any
896 drug, or combination of alcohol and any drug.

897 (9) The results of any test taken under this section or the refusal to be tested shall be

898 reported to the Federal Aviation Administration by the peace officer requesting the test.

899 Section 22. Section **76-5-102.7** is amended to read:

900 **76-5-102.7. Assault against health care provider and emergency medical service**
901 **worker -- Penalty.**

902 (1) A person who assaults a health care provider or emergency medical service worker
903 is guilty of a class A misdemeanor if:

904 (a) the person is not a prisoner or a person detained under Section [77-7-15](#);

905 (b) the person knew that the victim was a health care provider or emergency medical
906 service worker; and

907 (c) the health care provider or emergency medical service worker was performing
908 emergency or life saving duties within the scope of his or her authority at the time of the
909 assault.

910 (2) A person who violates Subsection (1) is guilty of a third degree felony if the
911 person:

912 (a) causes substantial bodily injury, as defined in Section [76-1-601](#); and

913 (b) acts intentionally or knowingly.

914 (3) As used in this section:

915 (a) "Emergency medical service worker" means a person [~~certified~~] licensed under
916 Section [26-8a-302](#).

917 (b) "Health care provider" means the same as that term is defined in Section
918 [78B-3-403](#).

919 Section 23. Section **78A-6-209** is amended to read:

920 **78A-6-209. Court records -- Inspection.**

921 (1) The court and the probation department shall keep records as required by the board
922 and the presiding judge.

923 (2) Court records shall be open to inspection by:

924 (a) the parents or guardian of a child, a minor who is at least 18 years of age, other
925 parties in the case, the attorneys, and agencies to which custody of a minor has been

926 transferred;

927 (b) for information relating to adult offenders alleged to have committed a sexual
928 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
929 Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose
930 of evaluating whether an individual should be permitted to obtain or retain a license as an
931 educator or serve as an employee or volunteer in a school, with the understanding that the State
932 Board of Education must provide the individual with an opportunity to respond to any
933 information gathered from its inspection of the records before it makes a decision concerning
934 licensure or employment;

935 (c) the Criminal Investigations and Technical Services Division, established in Section
936 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
937 and establishing good character for issuance of a concealed firearm permit as provided in
938 Section 53-5-704;

939 (d) the Division of Child and Family Services for the purpose of Child Protective
940 Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and
941 administrative hearings in accordance with Section 62A-4a-1009;

942 (e) the Office of Licensing for the purpose of conducting a background check in
943 accordance with Section 62A-2-120;

944 (f) for information related to a juvenile offender who has committed a sexual offense, a
945 felony, or an offense that if committed by an adult would be a misdemeanor, the Department of
946 Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether
947 a licensee should be permitted to obtain or retain a license to provide child care, with the
948 understanding that the department must provide the individual who committed the offense with
949 an opportunity to respond to any information gathered from its inspection of records before it
950 makes a decision concerning licensure;

951 (g) for information related to a juvenile offender who has committed a sexual offense,
952 a felony, or an offense that if committed by an adult would be a misdemeanor, the Department
953 of Health to determine whether an individual meets the background screening requirements of

954 Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that
955 the department must provide the individual who committed the offense an opportunity to
956 respond to any information gathered from its inspection of records before it makes a decision
957 under that part; and

958 (h) for information related to a juvenile offender who has committed a sexual offense,
959 a felony, or an offense that if committed by an adult would be a misdemeanor, the Department
960 of Health to determine whether to grant, deny, or revoke background clearance under Section
961 [26-8a-310](#) for an individual who is seeking or who has obtained an emergency medical service
962 personnel [~~certification~~] license under Section [26-8a-302](#), with the understanding that the
963 department must provide the individual who committed the offense an opportunity to respond
964 to any information gathered from the department's inspection of records before it makes a
965 determination.

966 (3) With the consent of the judge, court records may be inspected by the child, by
967 persons having a legitimate interest in the proceedings, and by persons conducting pertinent
968 research studies.

969 (4) If a petition is filed charging a minor 14 years of age or older with an offense that
970 would be a felony if committed by an adult, the court shall make available to any person upon
971 request the petition, any adjudication or disposition orders, and the delinquency history
972 summary of the minor charged unless the records are closed by the court upon findings on the
973 record for good cause.

974 (5) Probation officers' records and reports of social and clinical studies are not open to
975 inspection, except by consent of the court, given under rules adopted by the board.

976 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
977 history summary of any person charged as an adult with a felony offense shall be made
978 available to any person upon request.

979 (b) This provision does not apply to records that have been destroyed or expunged in
980 accordance with court rules.

981 (c) The court may charge a reasonable fee to cover the costs associated with retrieving

982 a requested record that has been archived.

983 Section 24. Section **78B-8-401** is amended to read:

984 **78B-8-401. Definitions.**

985 For purposes of this chapter:

986 (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid,
987 pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and
988 vaginal secretions, and any body fluid visibly contaminated with blood.

989 (2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic
990 Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically
991 designated by the Labor Commission in consultation with the Department of Health for the
992 purposes of this chapter.

993 (3) "Emergency services provider" means:

994 (a) an individual [~~certified~~] licensed under Section [26-8a-302](#), a public safety officer,
995 local fire department personnel, or personnel employed by the Department of Corrections or by
996 a county jail, who provide prehospital emergency care for an emergency services provider
997 either as an employee or as a volunteer; or

998 (b) an individual who provides for the care, control, support, or transport of a prisoner.

999 (4) "First aid volunteer" means a person who provides voluntary emergency assistance
1000 or first aid medical care to an injured person prior to the arrival of an emergency medical
1001 services provider or public safety officer.

1002 (5) "Prisoner" is as defined in Section [76-5-101](#).

1003 (6) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13,
1004 Peace Officer Classifications.

1005 (7) "Significant exposure" and "significantly exposed" mean:

1006 (a) exposure of the body of one person to the blood or body fluids of another person
1007 by:

1008 (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument,
1009 or a wound resulting from a human bite, scratch, or similar force; or

1010 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,
1011 abrasion, dermatitis, or other damage; or
1012 (b) exposure that occurs by any other method of transmission defined by the
1013 Department of Health as a significant exposure.